The Regents of the University of California

FINANCE AND CAPITAL STRATEGIES COMMITTEE

March 15, 2023

The Finance and Capital Strategies Committee met on the above date at the UCSF-Mission Bay Conference Center, San Francisco campus and by teleconference meeting conducted in accordance with California Government Code §§ 11133.

Members present: Regents Chu, Cohen, Makarechian, Matosantos, Pérez, Pouchot, Robinson, and Sherman; Ex officio members Drake and Leib; Advisory members Cochran, Ellis, and Raznick; Chancellors Hawgood, Khosla, May, and Muñoz; Staff Advisor Mackness

In attendance: Regent Sures, Secretary and Chief of Staff Lyall, Deputy General Counsel Drumm, Executive Vice President and Chief Financial Officer Brostrom, Executive Vice President Byington, Executive Vice President and Chief Operating Officer Nava, Senior Vice President Colburn, Vice Presidents Lloyd and Williams, Chancellor Larive, and Recording Secretary Johns

The meeting convened at 1:30 p.m. with Committee Chair Cohen presiding.

1. APPROVAL OF MINUTES OF PREVIOUS MEETING

Upon motion duly made and seconded, the minutes of the meeting of January 19, 2023 were approved, Regents Chu, Cohen, Drake, Leib, Makarechian, Matosantos, Pérez, Pouchot, Robinson, and Sherman voting "aye."[1]

2. CONSENT AGENDA

A. ***Preliminary Plans Funding, Gayley Towers Redevelopment, Los Angeles Campus***

The President of the University recommended that the 2022–23 Budget for Capital Improvements and the Capital Improvement Program be amended to include the following project:

Los Angeles: Gayley Towers Redevelopment – preliminary plans – $3.1 million to be funded from housing reserves.

1 Roll call vote required by the Bagley-Keene Open Meeting Act [Government Code §11123(b)(1)(D)] for all meetings held by teleconference.

B. ***Preliminary Plans Funding, North District Phase 2, Riverside Campus***

The President of the University recommended that the 2022–23 Budget for Capital Improvements and the Capital Improvement Program be amended to include the following project:

Riverside: North District Phase 2 – preliminary plans – $7.2 million to be funded from campus funds.

C. ***Preliminary Plans Funding, Undergraduate Teaching and Learning Facility, Riverside Campus***

The President of the University recommended that the 2022–23 Budget for Capital Improvements and the Capital Improvement Program be amended to include the following project:

Riverside: Undergraduate Teaching and Learning Facility – preliminary plans – $6.8 million to be funded from State General Funds.

D. ***Budget, Scope, External Financing, and Design Following Adoption of a Mitigated Negative Declaration Pursuant to the California Environmental Quality Act, Mesa Court Residence Hall Expansion, Irvine Campus***

The President of the University recommended that:

(1) The 2022–23 Budget for Capital Improvements and the Capital Improvement Program be amended to include the following project:

Irvine: Mesa Court Residence Hall Expansion – design, construction, and equipment – $80,659,000 to be funded from Higher Education Student Housing Grant funds ($65 million), external financing ($14,779,000), and auxiliary reserves ($880,000).

(2) The scope of the Mesa Court Residence Hall Expansion project be approved. The project scope shall consist of constructing an approximately 84,000-gross-square-foot (gsf) and 55,000-assignable-square-foot (asf) residence hall that would accommodate approximately 300 undergraduate students in triple-occupancy rooms, with the potential for increasing some rooms to quadruple occupancy. The building would also provide shared bathrooms for every two bedrooms, resident advisor quarters, informal interaction space, and shared spaces, including kitchenettes, study rooms, teleconference rooms, quiet spaces, and laundry facilities. Site development shall include landscape and hardscape development to provide outdoor gathering and seating areas; a loading dock and service yard; secured bicycle parking; accessible parking; pathways, ramps, and sidewalks; site lighting; fire department access; and low-water landscape improvements.

As part of the design-build delivery process, the design-build team may provide enhancements to the basic program and design, such as additional building area or upgraded exterior space.

(3) The President be authorized to obtain external financing in an amount not to exceed $14,779,000, plus additional related financing costs, to finance the Mesa Court Residence Hall Expansion project. The President shall require that:

a. Interest only, based on the amount drawn, shall be paid on the outstanding balance during the construction period.

b. As long as the debt is outstanding, the general revenues of the Irvine campus shall be maintained in amounts sufficient to pay the debt service and to meet the requirements of the authorized financing.

c. The general credit of the Regents shall not be pledged.

(4) Following review and consideration of the environmental consequences of the proposed Mesa Court Residence Hall Expansion project, as required by the California Environmental Quality Act (CEQA), including any written information addressing this item received by the Office of the Secretary and Chief of Staff no less than 48 hours in advance of the beginning of this Regents meeting, testimony or written materials presented to the Regents during the scheduled public comment period, and the item presentation, the Regents:

a. Adopt the Initial Study and Mitigated Negative Declaration for the Mesa Court Residence Hall Expansion project.

b. Adopt the Mitigation Monitoring and Reporting Program for the Mesa Court Residence Hall Expansion project and make a condition of approval the implementation of mitigation measures within the responsibility and jurisdiction of UC Irvine.

c. Adopt the CEQA Findings for the Mesa Court Residence Hall Expansion project.

d. Approve the design of the Mesa Court Residence Hall Expansion project, Irvine campus.

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Committee Chair Cohen briefly introduced the consent items. With respect to item D, *Budget, Scope, External Financing, and Design Following Adoption of a Mitigated*

Negative Declaration Pursuant to the California Environmental Quality Act, Mesa Court Residence Hall Expansion, Irvine Campus, he noted that there had been public comment from the City of Irvine. He reported that the Irvine campus and the Office of the General Counsel were in ongoing contact with the City. The item could move forward as presented.

Upon motion duly made and seconded, the Committee approved the President's recommendations and voted to present them to the Board, Regents Chu, Cohen, Drake, Leib, Makarechian, Matosantos, Pérez, Pouchot, Robinson, and Sherman voting "aye."

3. **BUDGET, SCOPE, EXTERNAL FINANCING, AND DESIGN FOLLOWING CONSIDERATION OF AN ADDENDUM TO THE 2018 LONG RANGE DEVELOPMENT PLAN ENVIRONMENTAL IMPACT REPORT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, TRITON CENTER, SAN DIEGO CAMPUS**

The President of the University recommended that:

A. The 2022–23 Budget for Capital Improvements and the Capital Improvement Program be amended as follows:

From: San Diego: Triton Center – preliminary plans – $16.25 million to be funded with campus funds.

To: San Diego: Triton Center – preliminary plans, working drawings, construction, and equipment – $428.2 million to be funded with external financing ($403.2 million) and campus funds ($25 million).

B. The scope of the Triton Center project be approved. The project shall provide a total of approximately 419,300 gross square feet (gsf), including 192,100 assignable square feet (asf) / 318,700 gsf of new space for Student Health and Well-Being, Student Academic Resources, Campus Administration (including approximately 542 asf Chancellor's office space), Alumni Center, and multipurpose space. The project shall also provide about 175 parking spaces and district utilities in a partially above-grade, partially below-grade structure of approximately 100,600 gsf. Public realm improvements shall include accessible pedestrian and micromobility circulation that is safety-oriented, a central plaza that affords seating and gathering, and necessary infrastructure updates to serve the building and surrounding precinct. The scope includes demolishing eight buildings within the project boundary and removing approximately 119 existing surface parking spaces.

C. The President be authorized to obtain external financing in an amount not to exceed $403.2 million, plus additional related financing costs to finance the Triton Center. The President shall require that:

(1) Interest only, based on the amount drawn, shall be paid on the outstanding balance during the construction period.

(2) As long as the debt is outstanding, general revenues from the San Diego campus shall be maintained in amounts sufficient to pay the debt service and to meet the related requirements of the authorized financing.

(3) The general credit of the Regents shall not be pledged.

D. Following review and consideration of the environmental consequences of the proposed Triton Center project, as required by the California Environmental Quality Act (CEQA), including any written information addressing this item received by the Office of the Secretary and Chief of Staff no less than 48 hours in advance of the beginning of the Regents meeting, testimony or written materials presented to the Regents during the scheduled public comment period, and the item presentation, the Regents:

(1) Adopt the CEQA Findings for the Triton Center project, having considered the 2018 Long Range Development Plan (LRDP) Environmental Impact Report (EIR) for the La Jolla Campus and Addendum No. 11 to the 2018 LRDP EIR for the Triton Center project.

(2) Make a condition of approval the implementation of applicable mitigation measures within the responsibility and jurisdiction of UC San Diego, as identified in the Mitigation Monitoring and Reporting Program adopted in connection with the 2018 LRDP EIR.

(3) Approve the design of the Triton Center project, San Diego campus.

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Chancellor Khosla briefly introduced the item.

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board, Regents Chu, Cohen, Drake, Leib, Makarechian, Matosantos, Pérez, Pouchot, Robinson, and Sherman voting "aye."

4. **BUDGET, SCOPE, EXTERNAL FINANCING, AND DESIGN FOLLOWING CONSIDERATION OF AN ADDENDUM TO THE 2018 LONG RANGE DEVELOPMENT PLAN ENVIRONMENTAL IMPACT REPORT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, RIDGE WALK NORTH LIVING AND LEARNING NEIGHBORHOOD, SAN DIEGO CAMPUS**

The President of the University recommended that:

A. The 2022–23 Budget for Capital Improvements and the Capital Improvement Program be amended as follows:

From: San Diego: Thurgood Marshall College Undergraduate Student Housing – preliminary plans – \$33.2 million, to be funded from housing auxiliary reserves.

To: San Diego: Ridge Walk North Living and Learning Neighborhood – preliminary plans, working drawings, construction, and equipment – \$683 million to be funded with external financing.

B. The scope of the Ridge Walk North Living and Learning Neighborhood project be approved. The project shall redevelop an approximately 7.5-acre underutilized infill site to provide approximately 934,000 gross square feet for approximately 2,444 new student beds, student dining, wellness programming, study lounges, co-working spaces, housing and offices for residential life staff, general assignment classrooms, and other academic space. The scope also includes a permanent home for the Marshall College academic program and replacement space for housing operations administrative staff currently located at Eucalyptus Point. The project will also include public realm and site utility infrastructure improvements.

C. The President be authorized to obtain external financing in an amount not to exceed \$683 million plus additional related financing costs to finance the Ridge Walk North Living and Learning Neighborhood. The President shall require that:

(1) Interest only, based on the amount drawn, shall be paid on the outstanding balance during the construction period.

(2) As long as the debt is outstanding, general revenues from the San Diego campus shall be maintained in amounts sufficient to pay the debt service and to meet the related requirements of the authorized financing.

(3) The general credit of the Regents shall not be pledged.

D. Following review and consideration of the environmental consequences of the proposed Ridge Walk North Living and Learning Neighborhood project, as required by the California Environmental Quality Act (CEQA), including any written information addressing this item received by the Office of the Secretary and Chief of Staff no less than 48 hours in advance of the beginning of the Regents meeting, testimony or written materials presented to the Regents during the scheduled public comment period, and the item presentation, the Regents:

(1) Adopt the CEQA Findings for the Ridge Walk North Living and Learning Neighborhood project, having considered the 2018 Long Range Development Plan (LRDP) Environmental Impact Report (EIR) for the La

Jolla Campus and Addendum No. 12 to the 2018 LRDP EIR for the Ridge Walk North Living and Learning Neighborhood project.

(2) Make a condition of approval the implementation of applicable mitigation measures within the responsibility and jurisdiction of UC San Diego, as identified in the Mitigation Monitoring and Reporting Program adopted in connection with the 2018 LRDP EIR.

(3) Approve the design of the Ridge Walk North Living and Learning Neighborhood project, San Diego campus.

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Chancellor Khosla recalled that, in 2014, UC San Diego had articulated an ambitious goal of a four-year housing guarantee, with rental rates at least 20 percent below market. Since then the campus had been steadily constructing housing. The Ridge Walk North Living and Learning Neighborhood project was a meaningful step toward achieving this goal. The project would provide 2,444 undergraduate student beds, increase the density of the site, and replace outdated, low-density structures from the 1970s.

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board, Regents Chu, Cohen, Drake, Leib, Makarechian, Matosantos, Pérez, Pouchot, Robinson, and Sherman voting "aye."

5. **BUDGET, SCOPE, AND EXTERNAL FINANCING, STUDENT HOUSING WEST PHASE 1 – HAGAR DEVELOPMENT AND PRELIMINARY PLANS FUNDING AND EXTERNAL FINANCING, STUDENT HOUSING WEST PHASE 2 – HELLER DEVELOPMENT, SANTA CRUZ CAMPUS**

The President of the University recommended that:

A. The 2022–23 Budget for Capital Improvements and the Capital Improvement Program be amended to include the following projects:

(1) Santa Cruz: <u>Student Housing West Project Phase 1 – Hagar Development</u> – preliminary plans, working drawings, construction, and equipment – $145,615,000 to be funded by external financing ($128,113,000) and campus funds ($17,502,000).

(2) Santa Cruz: <u>Student Housing West Project Phase 2 – Heller Development</u> – preliminary plans – $6,071,000 to be funded by external financing.

B. The scope of Student Housing West Project Phase 1 – Hagar Development shall consist of 140 new two-bedroom units for family student housing (approximately 104,400 assignable square feet (ASF)), an Early Education Services facility (approximately 10,450 ASF), a community building and maintenance building (totaling approximately 4,300 ASF), and a wastewater treatment plant (approximately 750 ASF). The scope includes site improvements such as parking, road, pathways, and utilities infrastructure. In an effort to reduce the Hagar Development's budget, the campus proposes to reduce the family student housing unit size by 200 gross square feet.

C. The President be authorized to obtain external financing in an amount not to exceed $134,184,000 plus additional related financing costs to finance Student Housing West Project. The President shall require that:

(1) Interest only, based on the amount drawn, shall be paid on the outstanding balance during the construction period.

(2) As long as the debt is outstanding, the general revenues of the Santa Cruz campus shall be maintained in amounts sufficient to pay the debt service and to meet the related requirements of the authorized financing.

(3) The general credit of the Regents shall not be pledged.

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Committee Chair Cohen recalled that there had been lively discussion of the UC Santa Cruz Student Housing West project in 2019. At the January 2019 meeting, both supporters and opponents of the project had presented their views. Ultimately, the project was approved.

Chancellor Larive explained that this project would provide housing for more than 3,000 students at two sites on the main campus. The first phase, the Hagar development, included 140 two-bedroom apartment units for students with families and a childcare facility. The second phase, the Heller development, involved demolishing the existing family student housing and childcare center and redeveloping the site with nearly 3,000 beds for upper-division undergraduates and graduate students. The approved project was initially planned as a public-private partnership. With increased interest rates and the design nearly complete, the campus believed that the best way to get this housing built was as a campus-managed capital project.

Chancellor Larive drew attention to some changes that had been made to the item as initially submitted in order to consider a reduction in the size of the family student housing units as UCSC continued to identify ways to reduce project cost and remain within the original design scope. The Regents had certified the Environmental Impact Report (EIR) and approved the business terms and design in March 2019. Since then, there had been lawsuits challenging the Regents' approval and EIR certification. The Santa Cruz County Superior Court had twice upheld the adequacy of the EIR, as had the Sixth District Court of Appeal. A final appeal filed by a project opponent was pending. The Regents had re-approved the project in March 2021.

Regent Leib asked if the number of project opponents had diminished or remained the same. Chancellor Larive responded that this was hard to quantify. The need for student housing was well understood in the UCSC community and the overall need for housing was understood in the Santa Cruz County community. There were many more proponents of this project at this time. She expressed gratitude to Santa Cruz Mayor Fred Keeley and to the City Council, which voted unanimously to support the Mayor’s position in support of the project. She believed that UCSC was in a new phase of its relationship with the community.

Regent Leib recalled that, on past occasions, he had received many communications from elected officials regarding this project, but not on this occasion. He asked if this was due to changes in the project or the fact that people had reconsidered and were thinking differently about the project. Chancellor Larive responded that the reasons for this might be hard to pinpoint. The Regents had now approved the project twice; this expression of confidence by the Regents might account for a change in thinking. The campus had made efforts to be more active in communicating with the broader community, alumni, and others in the state about the actions UCSC was taking and the reasons for these actions. The need for housing was a recurrent theme in these discussions, and it was possible that UCSC was making progress in communicating its position.

Regent-designate Ellis underscored that there was a dire housing shortage in general in California and on the UC campuses. He commended the plan for wastewater treatment facilities in the project. He asked about natural reserve spaces at UCSC and the space being used for these developments. Chancellor Larive responded that the East Meadow site, at the time of the founding of the campus, had been seen as a site for numerous professional schools. It was located at the intersection of two roads and across the street from faculty and staff housing. UCSC had a 2,000-acre campus. The northern part of the campus, more than 1,000 acres, was the Campus Natural Reserve, which was used for field-based research and instruction and was not likely to be developed in the future. Chancellor Larive believed that the sites of this project, in the campus core, were appropriate.

Regent Pérez praised the campus for the continued improvements to this project, for listening to input, even from those opposed to the project, and for responding to valid concerns. There had been a change in the City’s position, and a significant factor in this was Chancellor Larive’s leadership and the campus’ approach to restructuring the relationship with the community.

Regent Chu asked that there be greater consistency in capital project agenda items in the future. Information, such as information on density in projects, was not presented in a consistent way between one item and another. Mr. Brostrom responded that this would be done.

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board, Regents Chu, Cohen, Drake, Leib, Makarechian, Matosantos, Pérez, Pouchot, Robinson, and Sherman voting "aye."

6. **AMENDMENTS TO THE UNIVERSITY OF CALIFORNIA RETIREMENT SAVINGS PROGRAM PLANS AS PERMITTED BY THE SECURING A STRONG RETIREMENT ACT OF 2022**

The President of the University recommended that:

A. The UC Retirement Savings Program (RSP) plans be amended, as applicable, to implement the following provisions as soon as administratively feasible after Regental approval:

(1) The Tax-Deferred 403(b) Plan and the 457(b) Deferred Compensation Plan be amended to allow for Roth contributions and permit rollovers of Roth designated contributions.

(2) The Tax-Deferred 403(b) Plan be amended to permit the distribution of earnings on a participant's accumulations in the event of a hardship withdrawal.

(3) The Tax-Deferred 403(b) Plan and the 457(b) Deferred Compensation Plan be amended to permit a domestic abuse victim, as defined in the Securing a Strong Retirement Act of 2022 (SECURE Act 2.0), to request distributions, including in-service distributions, provided that:

a. The distributed amounts are limited to the lesser of 50 percent of the participants' accumulations or $10,000;

b. The distributed amounts may be repaid within three years and such repayments will be deemed an eligible plan rollover.

(4) The UC Defined Contribution Plan, the Tax-Deferred 403(b) Plan, and the 457(b) Deferred Compensation Plan be amended to remove the percentage limitation for the purchase of a Qualified Longevity Annuity Contract (QLAC).

Note: In accordance with the SECURE Act 2.0, a QLAC may be no more than $200,000 (as indexed).

(5) The UC Defined Contribution Plan, the Tax-Deferred 403(b) Plan, and the 457(b) Deferred Compensation Plan be amended to allow a free-look period not to exceed 90 days after purchasing a QLAC.

B. The President be authorized to implement these approved provisions and supporting technical details, and the Plan Administrator be delegated authority to subsequently amend the RSP plan documents as necessary to implement the approved changes.

C. The Office of the Chief Investment Officer be authorized to determine and implement the duration of the QLAC free-look period.

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Executive Vice President and Chief Operating Officer Nava introduced the item. The Securing a Strong Retirement Act of 2022 (SECURE Act 2.0) was signed into law on December 29, 2022. Adopting five optional provisions of the Act would help UC employees, especially younger and lower-paid staff, by encouraging more savings, increasing retirement income, and providing access to funds when extreme hardships arise. The proposed action would add Roth options to the University's 403(b) Plan and 457(b) plans to accommodate a SECURE Act 2.0 mandate that requires that any age 50 catch-up contribution must be done in a Roth deferral. The wider availability of Roth options would incentivize younger employees to save more now and enjoy tax-free distributions in retirement. Since this was a mandate, if Roth options were not made available for all participants, UC would have to eliminate the catch-up contributions provision. Second, this action would allow earnings to be used for hardship distributions; currently, only employee contributions could be accessed for this purpose. Third, it would allow penalty-free withdrawals for victims of domestic abuse. The last two components of the proposed action concerned the Qualified Longevity Annuity Contract (QLAC), launched by UC Investments in 2021. One would remove the percent limit on the account balance amount that can be used to purchase the QLAC; the second would allow a look-back period for the QLAC purchasers. The University did not anticipate implementation challenges for these changes to the Plan.

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board, Regents Chu, Cohen, Drake, Leib, Makarechian, Matosantos, Pérez, Pouchot, Robinson, and Sherman voting "aye."

7. SIGNIFICANT INFORMATION TECHNOLOGY PROJECTS REPORT FOR THE PERIOD SEPTEMBER 1, 2022 THROUGH DECEMBER 31, 2022

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Regent Matosantos asked about the Davis campus project to restructure its financial management processes, Aggie Enterprise. In the report, this project had been flagged with a "red" sign for budget, schedule, and overall health of the project. UC Davis Vice Chancellor Clare Shinnerl acknowledged that this project had moved from "green" to "red" status. In this case, every department, school, and college at UC Davis requested an extension, so the campus extended the project by six months. UC Davis had been attempting to implement a new common chart of accounts concurrent with a new financial system, and the workload was enormous. By extending the implementation of Aggie Enterprise, an Oracle system, the campus could prioritize the chart of accounts and meet the associated July 1 deadline. The original plan would have called for two implementations during the period of the fiscal year close; separating the two projects would allow the campus to focus on the fiscal year close, followed by Aggie Enterprise in January 2024. Campus users had also asked for more training, and this would be provided in the coming six months. UC Davis had lost staff during the COVID-19 pandemic and had difficulty replacing them. The extension would also allow time for adding new staff. UC Davis had been learning from the experiences of colleagues at UC San Diego and UC Merced and was hoping for a successful implementation in January 2024.

8. MID-YEAR REPORT OF THE UC OFFICE OF THE PRESIDENT'S BUDGET TO ACTUAL EXPENDITURES AND SECOND QUARTER FORECAST FOR FISCAL YEAR 2022-23

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Executive Vice President and Chief Operating Officer Nava provided highlights from the update on the Office of the President (UCOP) budget. Through December 2022, actual expenditures to budget were five percent below budget, or $25 million. The major changes were a 2.7 percent increase in Programs and Initiatives, primarily because the Tobacco-Related Disease Research Program had distributed more grants than planned, while Systemwide and Core Services were under budget by about 11.7 percent, mostly due to timing of invoices for Human Resources programs. For the second quarter, UCOP was projecting that, by the end of the year, UCOP would be over budget by three percent or $33 million. This was mainly due to an increase in State funds received in the prior year budget, and which had not been anticipated, including $16 million for work on climate change and $5 million for Student Academic Preparation and Educational Partnerships (SAPEP). UCOP anticipated variances related to the Tobacco-Related Disease Research Program, which would be accelerating the distribution of grants, and a small variance in the UCPath project, about $2.4 million over budget, due to the administration of the federal Public Service Loan Forgiveness program as well as overpayment work connected with union contracts.

9. BUDGET, SCOPE, INTERIM AND STANDBY FINANCING, AND DESIGN FOLLOWING CONSIDERATION OF AN ADDENDUM TO THE 2021 LONG RANGE DEVELOPMENT PLAN ENVIRONMENTAL IMPACT REPORT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, HEATHCOCK HALL, BERKELEY CAMPUS

The President of the University recommended that:

A. The 2022–23 Budget for Capital Improvements and Capital Improvement Program be amended as follows:

From: Berkeley: College of Chemistry Expansion Building – preliminary plans – $3,199,000 to be funded with campus funds.

To: Berkeley: Heathcock Hall – preliminary plans, working drawings, construction, and equipment – $150 million to be funded by gift funds ($90 million); campus funds ($30 million); and State funds ($30 million).

B. Interim financing be approved in an amount not to exceed $19 million plus related interest expense and additional related financing costs to finance the Heathcock Hall project. The Berkeley campus shall satisfy the following requirements:

(1) Interest only, based on the amount drawn, shall be paid on the outstanding balance during the construction period.

(2) To the extent additional gifts and other funds are received as cash, the amount of interim financing will be reduced. To the extent additional gifts are received as documented pledges, the interim financing will be converted to standby financing.

(3) If gifts or pledges or both are not received within five years from the initial financing draw in the full amount of the outstanding interim financing, the amount of outstanding interim financing in excess of the amount of gifts and pledges received will be converted to long-term external financing or the Berkeley campus will pay down, within a reasonable time, the amount of outstanding interim financing in excess of the amount of gifts and pledges received.

(4) As long as the debt is outstanding, the general revenues of the Berkeley campus shall be maintained in amounts sufficient to pay the debt service and to meet the related requirements of the authorized financing.

(5) The general credit of the Regents shall not be pledged.

C. Standby financing be approved in an amount not to exceed $36.5 million plus related interest expense and additional related financing costs to finance the Heathcock Hall project. The Berkeley campus shall satisfy the following requirements:

(1) Interest only, based on the amount drawn, shall be paid on the outstanding balance during the construction period.

(2) Repayment of any debt shall be from gift funds. As gifts are received, the campus will reimburse the standby financing in a timely fashion. If gift

funds are insufficient and some or all of the debt remains outstanding, then campus funds shall be used to pay the debt service and to meet the related requirements of the authorized financing.

(3) As long as the debt is outstanding, the general revenues of the Berkeley campus shall be maintained in amounts sufficient to pay the debt service and to meet the related requirements of the authorized financing.

(4) The general credit of the Regents shall not be pledged.

D. The scope of the Heathcock Hall project be approved: The project shall provide approximately 81,700 gross square feet, 49,300 assignable square feet (asf) of new space for 31,100 asf of laboratories, 14,900 asf of office and collaboration space, and 3,300 asf of flexible space. The project scope includes systems to streamline connections with the future campus energy plant. Public realm improvements shall include landscaping and plaza improvements, improvements to accessibility, wayfinding, and circulation, new accessible parking, and reconstruction of the Gayley Road and University Drive intersection.

E. Following review and consideration of the environmental consequences of the Heathcock Hall project as required by the California Environmental Quality Act (CEQA), including any written information addressing this item received by the Office of the Secretary and Chief of Staff to the Regents no less than 48 hours in advance of the beginning of this Regents meeting, testimony or written materials presented to the Regents during the scheduled public comment period, and the item presentation, the Regents:

(1) Adopt the CEQA Findings for the Heathcock Hall project, having considered both the UC Berkeley 2021 Long Range Development Plan and Housing Project #1 and #2 Environmental Impact Report (2021 LRDP EIR) and Addendum #4 to the 2021 LRDP EIR for the Heathcock Hall project.

(2) Make a condition of approval the implementation of applicable Mitigation Measures and Continuing Best Practices within the responsibility and jurisdiction of UC Berkeley as identified in the Mitigation Monitoring and Reporting Program adopted in connection with the 2021 LRDP and Housing Project #1 and #2 EIR.

(3) Approve the design of the Heathcock Hall project, Berkeley campus.

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Chancellor Christ explained that Heathcock Hall would be a critical investment by the Berkeley campus to support the College of Chemistry. The campus and College had identified the project as a priority to address recruitment and retention issues, maintain the College's reputation and its high level of teaching and research, and provide space to accommodate the research and teaching mission. Future laboratories in the building would support research in the areas of decarbonization, clean energy science, drug therapeutics, and advanced materials. The new building would provide additional space for new, modern laboratories that would support growing enrollment. The building would also allow the College to address renewal needs in other facilities by providing replacement space for laboratories that would selectively be decommissioned and retrofitted for new functions in other parts of the College. Heathcock Hall would also be one of the first campus buildings connected to the campus' new central plant, which was being planned as part of the Clean Energy Campus project. The new plant would provide 100 percent clean energy in alignment with UC and State climate goals. Heathcock Hall would be designed with infrastructure enabling a streamlined connection to future heating and cooling systems. The $150 million project would be funded through a combination of philanthropy, campus funds, and State funds.

Committee Chair Cohen asked if Chancellor Christ had concerns about achieving the target fundraising amount. Chancellor Christ responded in the negative. The campus felt that it was in a good position regarding fundraising for the project.

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board, Regents Chu, Cohen, Drake, Leib, Makarechian, Matosantos, Pérez, Pouchot, Robinson, and Sherman voting "aye."

10. FIAT LUX, THE UNIVERSITY'S CAPTIVE INSURANCE COMPANY: A TEN-YEAR UPDATE

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Executive Vice President and Chief Financial Officer Brostrom recalled that, over ten years earlier, the Regents had approved the creation of a captive insurance company, named Fiat Lux, which was domiciled in Washington, D.C. This captive insurance company had been very effective in helping the University contend with a turbulent insurance market and had grown to over $2 billion in assets. Mr. Brostrom explained that a captive insurance company is a wholly owned insurance company that is licensed and regulated by an authorized domicile to insure the risks of affiliated entities. The University solely controlled the supply and the insurance that was provided through Fiat Lux. Captive insurance companies were quite common in higher education and health care as well as in corporate settings. Nearly half of U.S. corporations utilized captive insurance companies and over 1,000 U.S. colleges and universities owned or participated in a captive insurance company, either in a stand-alone company like Fiat Lux or as part of a collective consortium, which was the case in many states.

The University created Fiat Lux for several reasons. By providing self-insurance, UC can mitigate the volatility in both pricing and the availability of insurance in the commercial market. UC is able to access the reinsurance market, buying wholesale rather than retail, and this expanded the number of insurance companies, which helped both with pricing and

UC's competitiveness. UC is able to create self-insurance towers for areas of coverage such as seismic safety and sexual misconduct liability, which UC could not currently obtain in the commercial market. Fiat Lux had given the University new rigor in its risk financing practices and more control and greater alignment with the insurance and reinsurance market, especially in situations where UC has quota shares as part of the insurance tower. Fiat Lux had enabled UC to create new insurance products and take over existing lines of insurance that it provides to employees, students, and affiliates.

Mr. Brostrom presented a chart showing the corporate structure and leadership of Fiat Lux, which included Office of the President and campus representatives as well as external advisors, often from the insurance industry. Fiat Lux was domiciled in Washington, D.C. because there was no captive legislation in California and the company could not be domiciled in California. Mr. Brostrom underscored that Fiat Lux had provided significant financial benefits to the University. UC purchases in both the insurance and reinsurance market, which broadens UC's base and reduces spending. UC had taken over several lines of insurance including life insurance and disability, and created new lines like UC Plus for employees which generates revenues and lowers the cost of supplemental insurance for employees. UC retains the premium in reserves that previously went to outside insurers, and this had resulted in increased investment income. Conservatively, the fiscal impact of Fiat Lux had exceeded $300 million since its inception. Nevertheless, the University did not create its captive insurance company solely for financing purposes.

Associate Vice President and Chief Risk Officer Kevin Confetti commented that there were many benefits of Fiat Lux beyond financial benefits. One was the ability to provide coverage that UC was not able to obtain in the commercial market, the most significant example being coverage for sexual misconduct liability. Fiat Lux allowed UC to provide continuity of coverage in areas where UC did not have full commercial carrier participation in its excess insurance structure. The University is able to issue a Differences in Conditions provision on the policies issued through Fiat Lux, which gives UC the ability to provide coverage for areas that are singularly excluded otherwise, such as traumatic brain injury in UC's casualty program. Fiat Lux also allowed UC to provide coverage amounts beyond those available in the commercial market.

Mr. Confetti presented a chart showing the University's captive insurance structure. The Regents are the owner of three primary captive constructs: the primary insurance company Fiat Lux; UC Health RRG, a risk retention group that was formed to underwrite medical professional liability coverage to UC-affiliated physicians and physicians' groups; and Eureka PCC, a non-risk bearing entity that sponsors two cell captives, Eureka One and Sequoia, which underwrite several employee and third-party programs. Mr. Confetti reported that, unfortunately, UC Health RRG ultimately did not meet UC's underwriting expectations and as a result the decision was made to cease its operations. The University was currently in the final stages of dissolving the UC Health RRG.

Fiat Lux provided more than 41 different lines of coverage, ranging from traditional coverage like workers' compensation, general liability, and medical professional liability to more specialized lines like cyber, fine art, and unmanned aircraft operations. Fiat Lux currently wrote approximately $513 million of annual premium. Mr. Confetti presented a chart illustrating liability program coverage and how UC's insurance lines were structured with Fiat Lux providing the primary layer of coverage or coverage that was considered UC's self-insured retention or deductible, with the purchase of commercial excess coverage above the primary layer. Fiat Lux provided the entirety of coverage for sexual misconduct liability.

Interim Executive Director Karen Hsi presented a timeline of accomplishments of UC's captive insurance program. Fiat Lux was formed in 2012. From 2012 to 2015, Fiat Lux insured six different coverages for UC on a limited basis. This resulted in UC paying Fiat Lux approximately $25 million per year in premium while holding approximately $60 million in assets.

In 2016, Fiat Lux began expansion of its risk financing applications and arrangements, insuring and reinsuring over 23 different types of risks previously insured through the traditional insurance marketplace. By July 2016, Fiat Lux had increased premiums written to just over $900 million with corresponding assets of over $1 billion. Of this, a little over $600 million in premium was a one-time premium payment from UC to Fiat Lux for all the outstanding liabilities residing in the workers' compensation and hospital professional liability trust programs. As a result of this transition from traditional banking programs into a captive insurance financing arrangement, $77.5 million was returned to the campuses and medical centers in the workers' compensation program through rebates, deficit relief, and rate reductions. In 2016, Fiat Lux also transacted various one-time enterprise risk financing arrangements such as providing stop-loss reinsurance for UC's self-insured employee and student health programs as well as providing representations, warranties, and guarantees for real estate purchases by the Office of the Chief Investment Officer that resulted in an annual savings of around $4.1 million.

In March 2017, the Regents agreed to form a new and separate captive insurance company, the UC Health RRG or reciprocal risk retention group mentioned earlier. This was now in the process of dissolution. In 2018, a customized equipment warranty program, the UC Asset Protection Plan (UCAPP), was established to bring guaranteed savings to participating UC departments compared to the original manufacturer service agreements pricing, using a first dollar zero deductible service agreement insurance program structure. In 2018, the University set up a protected cell company captive structure to sponsor cell captives utilized primarily for UC-related purposes. In 2019, both cell captives were formed. Eureka One IC ensures the employer-employee paid life insurance program and Sequoia IC began to reinsure the newly developed and customized voluntary benefits insurance products (accident, critical illness, and hospital indemnity policies) in 2020. These voluntary benefit offerings were created to offer the UC employees, faculty, and staff enhanced supplemental health benefits at a discounted rate. Sequoia IC also reinsures the Campus Connexions insurance portfolio, which provides 12 different third-party liability insurance products to University constituents.

Beginning in 2020, Fiat Lux issued $75 million of sexual molestation coverage to the University when carriers in the traditional insurance market began excluding this coverage for UC. As the University's self-insured retentions continue to increase, they are insured within Fiat Lux, which can participate in quota shares and in the excess towers. In the current year, 2023, Fiat Lux had been able to formally return $21.7 million in surpluses to the campuses due to the captive grant program, which funds loss prevention programs such as cyber prevention and risk and safety solutions. From inception to date, the underwriting profit for Fiat Lux, excluding claims in the James Heaps matter, had been over $119 million.

Ms. Hsi concluded by mentioning some captive insurance projects in development: a damage deposit insurance program for UC students that would be coupled with student renters' insurance; other third-party lines through UC's Human Resources employee benefits platform such as legal insurance or pet insurance; a personal line insurance program; and an equipment maintenance program for the medical centers. The University would consider using commercial insurance carriers well versed in these businesses and areas to act as fronting companies for UC's captive insurance arrangements as UC had done in other arrangements within Sequoia IC and Eureka One IC. Mr. Brostrom added that Fiat Lux must partner with companies like Prudential or Aflac to front UC in providing these benefits to employees.

Regent Pérez asked about the experience with UC Health RRG and how it resulted in a determination that this entity did not meet underwriting expectations. Mr. Confetti responded that the medical centers' strategy changed. The original thought had been that, as UC Health increased its affiliation agreements with physicians and physician groups, these physicians might have difficulty obtaining medical malpractice insurance in the commercial market. If insurance were provided through UC Health RRG there would be joint defense, which would benefit UC and the insured physicians. The projected need did not materialize despite multiple marketing efforts. Mr. Brostrom observed that the University was good at financing its insurance programs but not as good at marketing them.

Regent-designate Ellis referred to the plans for a student renters' insurance program. He suggested that this insurance should be portable so that students can retain it after graduation. This would be a means of cultivating ongoing relationships with alumni. Mr. Brostrom responded that in this and other retail insurance programs, UC would wish to be aligned with another insurer, who would market the program and make underwriting decisions. UC would not want to make decisions on behalf of students or alumni in these areas.

Regent Makarechian asked about the University's expertise in real estate and other insurance areas. He expressed concern about liability for the University from operating in the insurance business, recalled significant losses, and asked about the future direction of UC's insurance programs. Mr. Brostrom responded that the core mission should be to insure the operations of the University in the most cost-effective way possible. The lines of insurance offered through Fiat Lux should be the core competency and focus. Over time, UC has offered personal lines of insurance to its employees, faculty, and staff, primarily through outside providers. The University found that these programs were not providing a cost-effective benefit to UC employees. By taking on these programs, UC could provide the same underwriting but at lower cost and while remaining competitive. Mr. Brostrom underscored that UC had stop-loss insurance. UC would ensure that these programs are a benefit provided to employees but would not expose the University to risk. Mr. Confetti added that all the new insurance products being contemplated would be in response to some need of the University. UC was not engaging in these activities just to make money, but there were some advantages to a large insurance-type company structure which allows UC to pool its risk. Large losses cause damage but cause more damage for a single-line carrier; there was some advantage in having multiple lines of insurance in the organization and being able to spread risk across multiple years.

Regent Makarechian referred to cash losses listed in the background materials and expressed concern about liability and risk to the entire cash flow of the University. He asked how the University would handle situations like the losses due to the Heaps settlements. Mr. Brostrom explained that the declining cash in the last six months of the year was almost entirely due to the Heaps case. The University had to pay out the settlements and was waiting to recoup funds from insurers and reinsurers and waiting for proceeds from a taxable bond. He stressed that, if the University did not have Fiat Lux, it would face the same exposure, but without the cushion of an insurance company which spreads risk over a portfolio. The University was completely exposed in sexual misconduct liability. In all other areas, Fiat Lux had a quota share or the liability was covered by commercial insurers. With Fiat Lux, the University can bring in more insurers, both direct insurers and reinsurers. UC had increased some of its self-insured retention because it felt it could bear this risk more cost-effectively than the market.

Regent Makarechian reiterated his concern that the magnitude of the Heaps case could place the entire balance sheet of the University at risk. UC must consider placing limits on how much it would cover and develop a roadmap for the future. He raised the question of how the University would charge rates and assess damages to the campuses. In the Heaps case, UCLA was bearing only 30 percent of the damages while it had 100 percent responsibility for the case. He asked that this be discussed further at a future meeting. Regarding the University's roadmap, Mr. Brostrom noted that UC works with insurance professionals annually on optimization to determine the University's risk profile and what coverage it should provide, including stop-loss coverage. The more UC could use its captive grant program, the better it could mitigate future losses.

Regent Makarechian asked that a future presentation include comparative data on how much students or others are charged for UC insurance programs versus charges by other carriers; and comparative information on the Fiat Lux bottom line compared to other carriers, to determine if Fiat Lux was in fact profitable. Mr. Brostrom responded that he could provide regulatory reports from Washington, D.C. Fiat Lux was a highly rated captive insurance company.

Regent Leib asked about the selection of members of the Fiat Lux board of directors who come from the campuses. Mr. Brostrom responded that Fiat Lux wished to have campus and external representation on its board, particularly individuals with experience in the insurance market. Ms. Hsi added that the campus representatives on the board rotated.

Regent Leib suggested that the board might wish to have representatives from insurance companies or retired executives. Mr. Confetti responded that the current and past primary independent directors were experts on captive insurance. Mr. Brostrom added that Fiat Lux also worked closely with outside vendors for oversight and management, legal matters, and brokerage. The insurance companies had positive views of the Fiat Lux board and governance.

Chancellor Hawgood asked about coverage for traumatic brain injury. Mr. Confetti responded that within the general liability or casualty policy, due to National Collegiate Athletic Association litigation regarding traumatic brain injury, the University's casualty carriers have excluded coverage of traumatic brain injury. The University is able to provide coverage through Fiat Lux, but this coverage is not available in the commercial market.

Regent Sherman asked if Fiat Lux provided any insurance for the National Laboratories and about Fiat Lux's ability to provide insurance for the National Laboratories operated by separate limited liability companies (LLCs). Mr. Confetti responded that, as the manager and owner of the Lawrence Berkeley National Laboratory (LBNL), the University provides first-party coverage. Fiat Lux provides a primary layer of coverage for workers' compensation; all other programs are underwritten though a Department of Energy federal program. When Lawrence Livermore National Laboratory (LLNL) was entirely managed by UC, it was in the UC worker's compensation program. Now that LLNL and Los Alamos National Laboratory (LANL) were managed by separate LLCs, they had separate insurance programs. For the University, insurance at LLNL and LANL would be third-party liability, because these entities were not wholly managed and owned by UC.

Regent Sherman asked how much, besides underwriting profit, Fiat Lux had earned on the float. Mr. Brostrom responded that Fiat Lux had returned about $100 million of float income to the campuses. This began when UC carried out the loss portfolio transfer; before that point there had been a small amount in reserves. There had been trusts, such as a workers' compensation trust and a medical malpractice trust. The trusts were merged, and this allowed UC to insure across the portfolio; this action also brought in a large amount of assets, and UC began to realize investment income.

Regent Sherman asked about the amounts of the earnings. Mr. Brostrom responded there had been $100 million in investment earnings and $100 million in dividend back to the campuses.

Regent Sherman summarized that these earnings, plus the underwriting profit, amounted to $320 million. If one considered how the University would have proceeded without Fiat Lux, there would have been the same exposure and liability. With Fiat Lux, the retained liability was built into the net underwriting profit. This was advantageous for the University. Mr. Brostrom expressed agreement. The University had much broader coverage due to Fiat Lux.

Regent Sherman supposed that the policy language was better due to wholesale purchasing. He asked that a future presentation include figures for savings or earnings compared to how UC would have fared without Fiat Lux, relying on conventional insurance. Mr. Confetti underscored the importance of the ability to provide some level of coverage for sexual misconduct liability through Fiat Lux.

Regent Sherman observed that the National Laboratories represented another major source of risk, but that the federal government had responsibility for this. Mr. Brostrom added that seismic safety was another major risk. UC had creative policies to address business interruption, but the University would have to work with the federal government and the State in case of a catastrophic event.

President Drake noted that the lack of insurance coverage for sexual misconduct liability affected not only the University, but all entities. Mr. Confetti confirmed that this was the case. Most large academic institutions, especially those with a healthcare component, were unable to purchase insurance for sexual misconduct liability in the commercial market. Mr. Brostrom added that this was the case even before the Heaps matter came to light. Mr. Confetti also noted that, given property values in California, the University and other similar entities found it difficult to secure seismic coverage.

Regent Pérez asked how the University's formula for allocating costs to the campuses compared to other formulas used in the industry, by other carriers. He asked if UC had a comparator. UC had an interest in ensuring equity across the campuses in how it makes these adjustments. Mr. Confetti responded that UC had a formula.

Regent Pérez raised the question of whether UC's formula was better than formulas used in the industry. For example, in the category of damages due to traumatic brain injury, campuses with football teams would have greater exposure than campuses without football teams, and one would expect this to be reflected in the University's adjustments. Mr. Confetti responded that the UC actuary for these matters, Bickmore Actuarial, was probably the largest public entity actuary in California, and could provide data comparing UC to other public entities.

Regent Pérez asked if the actuarial analysis was based on the UC system as a whole and how it played out for individual campuses. Mr. Confetti commented that UC's greatest liability for traumatic brain injury came not from varsity but from club sports. Regent Pérez emphasized that this would differ by campus.

Committee Chair Cohen asked if the actuarial analysis was done campus by campus or systemwide, with the assumption that various factors would even out. Mr. Confetti responded that, at the systemwide level, all claims were capped at a certain level, depending on the program. In general liability, each individual claim at a location was capped at \$250,000. If a claim rises above \$250,000, the remainder is spread across the campuses and medical centers. The premium that each location pays for each line of insurance is based on that location's performance, claims history, and exposure. Mr. Brostrom added that these data were presented in aggregate and broken down by campus. Mr. Confetti explained that UCLA would pay a higher rate for automobile insurance than UC Merced because UCLA had a much larger fleet.

Regent Pérez asked that more detailed information be provided at a future meeting.

The meeting adjourned at 2:45 p.m.

Attest:

Secretary and Chief of Staff